

REMARKS

The Examiner objects to the drawings for the reasons noted in the official action, in particular the appearance of foreign language labels in FIG. 2 and the appearance of the reference number "2" for both a gear and a shifting packet in FIG. A. In response, a set of Annotated and Replacement Sheets of drawings, for FIGS. 2A, 2B and 6A-6D, accompany this Response.

With respect to FIG 1, please note that that figure was previously amended at the time of filing to replace all of the foreign language terminology with the English equivalents thereof. In any event, those drawing amendments are being reentered to ensure entry of the same. In addition, FIG. 2A and FIGS. 6D are amended to include reference numbers 1', 2', 3', 4', 5' and so on for the gears while retaining the reference number 2 for the shifting packets. Further, the specification is similarly amended to reflect the amendments to FIGS. 2A, 2B and FIGS. 6A-6D. It is respectfully submitted that none of the entered amendments add any new matter to the invention, the specification, the drawings or the claims.

All of the raised drawing objections are believed to be overcome by the requested accompanying drawing amendments. The new Replacement Sheets of formal drawing(s) incorporate all of the requested drawing amendment(s). If any further amendment to the specification or the drawings is believed necessary, the Examiner is invited to contact the undersigned representative of the Applicant to discuss the same.

The objection raised with respect to the Abstract of the Disclosure is overcome by the accompanying new Abstract. If any further amendment to the Abstract is believed necessary, the Examiner is invited to contact the undersigned to discuss the proposed change(s) to the same.

The Examiner objects to the title and further requires the submission of a Substitute Specification in proper/ idiomatic English and in compliance with 37 CFR 1.52(a) and (b). The Examiner's objections are noted, acknowledged and respectfully traversed in view of the following remarks.

Upon review of the title and the specification, the Applicant notes that certain passages of the translation from German to English is perhaps a little too literal and the meaning of the

passages could be clarified by suitable editing. The Applicant notes that these passages, in particular, appearing the Field of the Invention and the Summary of the Invention, are essentially based upon the claims and those sections of the specification are now accordingly amended. It is respectfully submitted that the entered amendments to the specification do not add any new matter to the invention, the specification or the claims.

The Applicant thereby believes that the grounds for objection for both the title and the specification as containing non-idiomatic English are met and overcome, and accordingly respectfully requests that the Examiner reconsider and withdraw all of the raised objections to the title and the rejections to the specification under 35 U.S.C. § 112, first paragraph. If the Examiner feels that further amendment to the title of the specification is necessary, the Applicant would be pleased to discuss the same with the Examiner.

Next, claims 43-48 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly amended, by the above claim amendments, and the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections. The entered claim amendments are directed solely at overcoming the raised indefiniteness rejection(s) and are not directed at distinguishing the present invention from the art of record in this case and do not add any new subject matter to or alter the subject matter or scope of the invention, the specification or the claims.

The Applicant wishes to point out in particular, however, with respect to the Examiner's objection to the term "packet"--as in "shifting packet"--that this term is thoroughly defined at several locations within the specification, such as in paragraphs [004], [013], [016]-[018], [020], [023], [026]-[029], [035], [040], [060], [062] and so on, as an element of the transmission comprising the gears of two or more gear ratios wherein the gears are selectively actuated by a common actuation element that is, in turn, controlled by a gear shift. It is therefore the Applicant's belief that the meaning of the term "packet" is clearly and adequately defined for purposes of the claims. The Applicant has, however, amended the claims to incorporate the above definition of the term "packet" within the independent claim in accordance with the formal

requirements of 35 U.S.C. § 112. It is, therefore, the Applicant's belief and position that the stated grounds for rejection of the claims under 35 U.S.C. § 112 are met and overcome and the Applicant accordingly respectfully requests that the Examiner reconsider and withdraw all rejections of the claims under 35 U.S.C. § 112.

Lastly, claims 43-84 are rejected, under 35 U.S.C. § 102(e), as being anticipated by Nizschke et al. '211. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

The Examiner cites Nizschke et al. '211 as relates to and teaches a transmission having a manually actuated shifting device having gates for six forward gears and at least one reverse gear in which continuously increasing and decreasing speed sequences alternatively access the two gears of the front mounted group.

First, it will be noted that independent claims 43 and 80 are now replaced with new independent claim 85, and this claim is based upon the subject matter of claims 43 and 75 and more clearly and explicitly recites the present invention and the fundamental distinctions between the present invention and the teachings of Nizschke et al. '211. In addition, new independent claim 86 is entered and this claim is based upon the allowed subject matter of the corresponding EPO patent which recently issued as EP 1 521 928 B1. This claim also clearly and explicitly recites the present invention and the fundamental distinctions between the present invention and the teachings of Nizschke et al. '211.

As recited in claim 85, the present invention is directed to a manually controlled shifting conversion apparatus for a multistage transmission. The transmission includes a plurality of shifting packets 2 in which each shifting packet 2 includes gears 1', 3'2', 4'5', 7'6', R for successive, non-adjacent gear ratios and gears for successive, adjacent gear ratios. In each shifting packet, the gears located in the shifting packet are respectively engaged by opposing axial displacements of the shifting packet gears by axial motion of a shifting rod 310. As further recited, each of the shifting rods 310 is coupled with a corresponding pivoting shifting finger 313 mounted on a shifting finger shaft 311 controlled by a gear shift lever 4 and the gear shift lever 4 has a shifting pattern wherein the shifting positions of successive gear ratios are located in opposing positions in the shifting pattern.

It is, therefore, apparent that there are a number of fundamental distinctions between the present invention, as recited in claim 85, and the teachings of Nizschke et al. '211. For example, Nizschke et al. '211 is directed to a 12 speed transmission comprising a main section having six gear ratios and a front end having two gear ratios where the transmission is shifted alternately between the two gear ratios of the front end for each successive gear ratio of the main section, so that there are effectively two first gears, two second gears, and so on, depending on which main section gear is engaged and which of the two front end section gears are engaged.

In fundamental and distinct contrast from the transmission taught by Nizschke et al. '211, the present invention as recited in claim 85 is constructed as a single unit having six gears and a reverse gear, so that there is no front end section and no alternate selection between two gears in a front end section.

In addition, the presently claimed invention is directed to a transmission having a manually controlled conversion apparatus for shifting among the seven gears of the transmission (i.e., the six forward gears and the reverse gear) wherein, as recited, the conversion apparatus is connected from the gear shift lever and includes an arrangement of shifting rods, shifting fingers and shifting finger shafts that translates positions of the gear shift lever into actuations of gear packets in the transmission. It is very apparent that Nizschke et al. '211 does not have, and does not in any way describe or even suggest or hint at such a mechanism.

In summary, and in complete contrast from the present invention, Nizschke et al. '211 does not teach, describe, suggest or remotely hint at a manually controlled shifting conversion apparatus in combination with a multistage transmission. In addition, and in further fundamental distinction from the present invention, Nizschke et al. '211 does not teach, suggest disclose or remotely hint at a transmission having a plurality of shifting packets 2 wherein each shifting packet 2 includes gears 1', 3'/2', 4'/5', 7'/6', R for successive, non-adjacent gear ratios and gears for successive, adjacent gear ratios located in different shifting packets and wherein, in each shifting packet, the gears located in the shifting packet

are respectively engaged by opposing axial displacements of the shifting packet gears by axial motion of a shifting rod 310.

In still further fundamental distinction from the present invention, Nizschke et al. '211 does not teach, suggest, disclose or remotely hint at a shifting conversion apparatus comprising shifting rods 310 coupled with corresponding pivoting shifting fingers 313 mounted on shifting finger shafts 311 and controlled by a gear shift lever 4.

It is, therefore, apparent that, for at least the above discussed reasons, the present invention and the teachings, disclosures, suggestions and hints of Nizschke et al. '211 are directed to two entirely and fundamentally different and distinct types of transmissions and that there is, in fact, no relationship between the transmission and conversion device of the presently claimed invention and the transmission taught by Nizschke et al. '211.

In view of the above, it is therefore the Applicant's position that the presently claimed invention, as recited in claim 85 and in the claims dependent thereon as well as independent claim 856 is completely and patentably distinguished over and from Nizschke et al. '211 under the requirements and provisions of 35 U.S.C. § 102 and/or § 103. The Applicant accordingly respectfully requests that the Examiner reconsider and withdraw all rejections of the claims of the present Application, as presented herein above over the cited prior art, and under the requirements and provisions of 35 U.S.C. § 102 and § 103, and allow claims as presented herein above.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Nizschke et al. '211 reference, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be

10/520,546

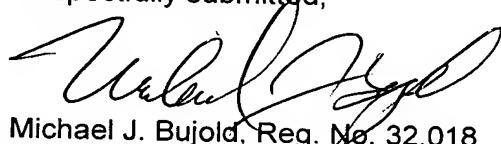
withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



Michael J. Bujold, Reg. No. 32,018
Customer No. 020210
Davis Bujold & Daniels, P.L.L.C.
112 Pleasant Street
Concord, NH 03301-2931
Telephone 603-226-7490
Facsimile 603-226-7499
E-mail: patent@davisandbujold.com